IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.829 OF 2004

IN

SUIT NO.497 OF 2004

...

Kamal Biharilal Wadhwa ...Plaintiff

v/s.

Suresh Enterprises

and others ...Defendants

...

Mr.K.D.Shah for the Plaintiffs.

None for the Defendants.

...

CORAM: D.K.DESHMUKH, J.

DATED: 2nd December,2004

P.C.:

1. This Notice of Motion is taken out by the Plaintiff. The learned Counsel appearing for the Plaintiff states that the Defendants have been served. He undertakes to file affidavit of service within one week from today. Defendants are not appearing and they have not filed any affidavit in reply. In the absence of any affidavit in reply, averments made in the affidavit filed in support of the motion have to be accepted at their face value.

2. I have perused the record. The allotment letter dated 26th May, 1993 mentions the consideration as Rs.6,20,000/-. The agreement acknowledges the receipt of Rs.3,00,000/-. The Plaintiff has averred that he subsequently paid on 26-6-1993 an amount of Rs.1,20,000/- by a cheque. The learned Counsel appearing for the Plaintiff states that the Plaintiff is willing to pay balance amount of Rs.2,00,000/- in this Court.

3. In this view of the matter, therefore, the Notice of Motion is granted in terms of prayer clause (a), subject to the condition that within two weeks from today the Plaintiff deposits in this Court an amount of Rs.2,00,000/- with intimation to the Defendants. It is clarified that the Receiver will take steps pursuant to this order only on being satisfied that the Plaintiff has deposited an amount of Rs.2,00,000/-. Till the Receiver takes possession, ad-interim order in terms of prayer clause (b) shall operate. Notice of Motion disposed of.

Parties and court receiver to act on authenticated copy of this order.

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